

January 29, 2004

Mr. Larriante J. Sumbry  
No. 965137, C-433  
Indiana State Prison  
P.O. Box 41  
Michigan City, Indiana 46361-0041

*Re: Formal Complaint 03-FC-146  
Alleged Denial of Access to Public Records by the LaPorte County Public Library*

Dear Mr. Sumbry:

This is in response to your formal complaint alleging that the LaPorte County Public Library (Library) violated the Access to Public Records Act (APRA) (Ind. Code 5-14-3-1 *et seq.*), when it failed to produce records in response to your December 8, 2003, request for records. The Library's response to your complaint is enclosed for your reference. The Library denies that it denied you records in violation of the APRA and notes that its response to your request was an attempt to facilitate your request. For the reasons set forth below, I find that the Library did not violate the APRA.

#### BACKGROUND

On December 8, 2003, you signed a letter addressed to the LaPorte County Public Library requesting access to records you assert are maintained by the Library. Specifically, your request sought to inspect or copy records as follows:

- 1) LaPorte County Police Commission,
- 2) LaPorte County Internal Affairs,
- 3) Atty Kevin Durkin/John Durkin,
- 4) LaPorte County Bar Association,
- 5) Chesterton Police Commission,
- 6) Lake Station Commission/Internal Affairs,
- 7) LaPorte A.C.L.U., NAACP,
- 8) Atty Mark Geragon,
- 9) Santa Barbara County,
- 10) Illinois Public Access Counselor,
- 11) Atty D. Bruce Poole,

- 12) Congressional Representative,
- 13) United States Internal Affairs,
- 14) WISH TV8,
- 15) LaPorte County News/Court Reporter,
- 16) LaPorte/Michigan City Hall,
- 17) Bob Knight,
- 18) Justice Community Center.<sup>1</sup>

The Library construed your request as an information request or request for library services. On December 11, 2003, the Library responded in writing and directed you to submit your request to Ken Boyle at the prison library. The Library noted that you do not reside within the Library County Library District, and that Mr. Boyle had advised the Library Director that he would respond to your request for services and that if he could not do so he would seek assistance from the Michigan City Public Library. The Library's response further referenced an earlier letter the Library sent you on November 11, 2003, wherein the Library advised you to submit any requests for library services to either the prison library or to the Michigan City Public Library. This complaint followed.

In its response to your complaint, the Library notes that you reside outside the Library District, but that you are entitled to library services through the prison library and the Michigan City Public Library. The Library denies that it denied you access to public records, and asserts that its letter in response to your request was intended to facilitate your request for information or library services.

### ANALYSIS

Indiana Code 5-14-3-3 provides that any person has the right to inspect and copy the public records of any public agency. However, the APRA applies only to provide for the inspection and copying of the *public records* of public agencies. IC 5-14-3-3(a). A public record means any writing, photograph, tape recording, or other material that is created, received, retained, maintained or filed by or with a public agency. IC 5-14-3-2. A request for inspection or copying of a public record must "identify with reasonable particularity the record being requested." IC 5-14-3-3(a)(1).

To be sure, the Library is a public agency, and its records are public records subject to inspection and copying under the APRA. However, your request in this matter is not a request for the public records of that agency, but rather appears as a request for research and information or library services. As a general matter, it is immediately doubtful that you are entitled to library services from the LaPorte County Library. *See* IC 20-14-2-8.<sup>2</sup> But more to the point, as a request for public records under the APRA your request is deficient in that it fails to identify any public record for production. I quote your request above to make the point. Each item in the

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<sup>1</sup> The foregoing is a complete and accurate quote from your records request, inclusive of original spelling and punctuation.

<sup>2</sup> As a non-resident of the library district, it appears too that the Library would be within its rights to charge you a fee for any services it would provide.

request is merely a reference to a person or entity, not a record. Certainly the Library is not required by the APRA to do general research on your behalf and to identify and produce every book or article or tape or other resource material within its record within its files and stacks that refers, for example, to Bobby Knight or WISH TV.

I agree with the Library that your request seeks information and library services and is more suitably directed to your prison library. That said, I offer the following additional guidance should you seek to renew your request and identify with reasonable particularity within it the public records you are seeking. The Library should respond to any request for public records within the time period required by statute as dictated by the nature of the request. *See* IC 5-14-3-9. If the Library is unable to understand your request in order to determine whether it has any responsive records, its response may identify the manner in which the request is deficient and request that you identify the records you are seeking with reasonable particularity. *See* IC 5-14-3-3(a)(1). The Library is not required to conduct research on your behalf. If your request identifies with reasonable particularity any public records that are maintained by the Library, the Library is obligated to produce those records. This obligation would not include, for example, books or other materials that are subject to copyright or other exemptions to disclosure. And, of course, the Library is entitled to charge you a copy fee for copies of any public records that are to be produced in response to the request, and it may seek and obtain that copy fee from you in advance of copying and producing the records.

#### CONCLUSION

For the reasons set forth above, I find that the Library did not violate the APRA in response to your December 8, 2003, request.

Sincerely,

Michael A. Hurst  
Public Access Counselor

cc: Ms. Judy R. Hamilton